IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 194 OF 2003

Somnath Patel ...Petitioner

Versus

Deepak Meherchand Mehta & Ors. ...Respondents

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None for the petitioner as well as the respondents.

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CORAM: B. H. MARLAPALLE, J.

DATED: 12TH APRIL, 2005

P. C.:-

1. On 28.1.2005 this petition has been adjourned by consent for three weeks. In writ petition No.2196 of 2001 this Court had granted ad interim stay in terms of prayer clause (c) till 18.6.2001. It is alleged that the said order has been wilfully violated by the respondents on 17.9.2001. The petitioner's son purportedly visited the suit premises around 5.30 p.m. and found that the lock of the premises were tampered with. The writ petition was admitted on 21.9.2001.

2. The respondents have filed an affidavit in reply and stated that the suit premises are a garage situated on the South side of the plot abutting the existing Mehta Sadan building. The structure is a

slopping roof of wooden joist and purlin covered with asbestos cement sheet fixed with J Bolt etc. About one third of the roof was collapsed on 12.8.2003 on account of heavy rains and on account of failure of the wooden joist and purlin which has completely eaten by termites and wooden door of the said garage collapsed in March 2002 due to the same reason and therefore, the alleged tempering with the premises or tampering the lock of the premises cannot be attributed to the petitioner.

3. Under these circumstances, there does not appear to be prima facie, case to take cognizance of contempt within the meaning of Section 2(b) of the Contempt of Courts Act, 1971.

4. The Contempt Petition is, therefore, rejected summarily.

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